

**Job Issue 1: Persons currently practicing will be put out of business  
– Transitional licensing is a hardship, not necessary and unfair to  
hard working Montanans.**

The amendments to fix it:

Page 4 Lines 19

Strike references to transitional licensure

Page 5 Lines 12 through 21

Strike: Section 9 Completely.

Insert: "Section 9. **Grandfather Provision.** (1) Persons who meet the provisions of section (8)(1)(a),(b),(d), and (e) and who can establish that their occupational practice began by the date of passage of this act are eligible to receive a license to practice massage therapy.  
(2) This provision expires October 1, 2011 or one year after the date the first licenses are issued, whichever comes later."

**Rationale – Why this change needs to be made:**

The national American Massage Therapy Association acknowledges that anyone who is in practice at the time of the date of passage of the massage therapy licensure bill has a right to be licensed. It is under the "should have" section of their own documentation on what licensure must or should include:

"Waiver of education and examination provisions for any practitioner seeking licensure who can establish that their occupational practice began by the date the legislation is passed."

Our contention is that

1. Anyone who is grandfathered in, doesn't need a GED.
2. If the major proponent (the AMTA) says that this is what should happen, even they don't believe that this is an issue of public safety. Grandfathering is intended to let anyone currently working to continue working. They eventually die off or retire, and at that point, standards will be raised. In addition, if they hurt someone, they can be disciplined or lose their license, thus protecting the public, when they have shown that they do not deserve a license. We do not believe that it is right or fair to put people out of work without giving them the opportunity to show that they can practice safely, particularly when the profession as a whole does not rise to the level of harm.
3. the expiration date: This will give everyone time to get in under this provision. We don't anticipate the first licenses being issued for a year or more, and we want everyone to have ample time to apply.

**Job Issue 2: All but 1 school could be forced to close and Reciprocity is nullified which could make it difficult for people to transfer here.**

The amendments to fix it:

Page 5 Lines 5-10 must be re-written

"(2) The applicant, in addition to the requirements established in subsection (1), is required to (A) successfully complete a massage therapy program of a minimum of 500 hours of study that meets or exceeds the criteria of a nationally recognized accreditation program designated curriculum standards approved by the board and: (a) receive a passing score on an examination prescribed by the board; or  
(b) possess an equivalent current license, certification, or registration in good standing from another state."

**Rationale – Why this change needs to be made:**

1. Current language impedes reciprocity and portability: No one who possesses an equivalent license will be able to work here unless they complete 500 hours of training. This countermands a "should have" requirement by the National AMTA: "A means of recognizing, for the purpose of

licensure, a valid license held by a practitioner that has been granted by another state government." This includes practitioners who have otherwise met all of the state mandated requirements in their state to possess an equivalent licensure, and who have held an equivalent license in good standing in another state. This is not fair and impedes the ability of the profession to begin to standardize itself and obtain reciprocity among the states. The first and last changes address this issue.

2. This provision has the means to put all but one of the 5 or 6 schools existing in Montana out of business. The term "criteria" is too broad – which criteria would the school have to meet? The site visits? Or would it be the requirement that the school be in existence for two years? Or the bonding issues? Our concern is that whatever the board decides could be a hardship on schools and put them out of business. We are also concerned that the main accreditation program for massage therapy, COMTA, has a minimum educational requirement of 600 hours. We think that it gives the board more flexibility to develop its own curriculum standards that meet the needs of the profession, OR use established ones, without locking them into something that could potentially be very limiting.

**Scope of Practice Issue: Our scope should not be limited beyond what is necessary, nor should it be limited by another profession inserting their definition into our practice act as a way to control our scope in the future.**

The amendments to fix it:

Page 1, Line 30

Following; "touch"

Insert: "manual techniques, movement"

This amendment adds these items back into the scope of practice

Page 2, Line 11 & 12

Strike: manual therapy or exercise, exercise instruction or prescription, or the use of tape"

This amendment removes these items from a list of prohibited items.

**Rationale – Why these changes need to be made:**

1. Massage Therapy does include manual techniques – those things done with the hands. Removing it from our scope, and then specifically excluding manual therapy negates and takes away what we do.
2. "manual therapy" is code for physical therapy, because MCA 37-11-101(9) says that manual therapy is another term for physical therapy. **The ramification of having this in our statute means that the profession of physical therapy will "own" us – meaning that they have the power to tell us to stop doing any techniques that massage therapists do, and that we haven't specifically delineated in the definition. Under NO circumstances is this acceptable.**
3. "Exercise" is too vague – it is not defined anywhere. Could it mean movement? With the removal of "movement" (combined with 2 above), means that PTs could tell us that we can't do any kind of movement that we've been trained to do.
4. Use of tape: Kinesiotaping is a method of holding to the soft tissues to assist with postural issues. These continuing education courses are being offered to massage therapists. We need the right to have it be a part of our practice. Do not listen to the mantra that "it's not taught in massage school" – that's not fair. When a person is disciplined, the issue of standard of care is brought forth – did the person have the training to do what they did. If not, they will be sanctioned. Much of what PTs do now, is not taught in school – but their scope is broad enough to accommodate that. We want the same courtesy.

**Scope of Practice Issue: Our scope should not be limited beyond what is necessary, but also have the flexibility to include new techniques as they become available to the massage therapy profession.**

The amendments to fix it:

Page 2, Line 2

Following: "movement,"

Insert: "other therapeutic methods including"

**Rationale – Why this change need to be made:** As new techniques and hands-on therapeutic methods are taught and become available to Massage Therapists, they should have the broadness of scope to include them. Other licensed professions have broadly-written scopes that go well beyond their training received in their initial schooling. From there, they gain additional training that does not exceed the wording of those broadly written scopes. The point of having a board is to determine when or if the person has exceeded their standard of care. We are not asking carte blanche to do "everything" we are merely asking for a measured scope that allows for when the profession brings in new skills and training. Limiting the scope too much stifles the diversity and learning of new skills that fit within the purview of the profession.

**Scope of Practice Issue: Our scope is not just about health care.**

Page 1, Line 16

Following: "care."

Insert: "Massage therapy has application in the health care, wellness, and fitness fields."

**Rationale – Why this change needs to be made:** Massage Therapy is not just about health care. In fact, massage therapy in this country was widely accepted because of its application in athletics. We do not want to lose that here. It also has application in the spa industry, which includes the wellness aspects. Failure to make this change will impede our ability to negotiate with athletic trainers and cosmetologists.

**Misc. Issue: Clarify legislative intent in the following section:**

Page 4 lines 6-8 is not clear: #(3)

Can they refuse to license anyone they want to...

Or must the person meet the criteria listed in 3a – e?

**Rationale – Given how the process of bill drafting unfolded, we have no trust in any of those who might end up on the board. We want to make sure that the legislative intent is clear here – that the board does not have the power to refuse a license to anyone without compelling reasons.**

**Misc. Issue: No practitioners should be forced to 'tell on' another practitioner, nor should civil rights be removed without good reason.**

Page 3 line 29

Strike starting with line 29 – through Page 4 Line 5

**Rationale – Why this change needs to be made:** Not every profession has this provision and we don't want it. No massage therapist should be put in the position of "tattling" on another practitioner, and if not, losing their license (if a person is in violation of any of the provisions of the law, they can lose their license). This is big-brother at its worst, and no practitioner should be forced to do this. Further, it is difficult to prove that a practitioner filed a malicious complaint, and the practitioner would have no recourse. This unjustly removes the civil right of the practitioner to sue. A practitioner filing such a malicious complaint is not held accountable for their behavior.

**Misc. Issue: The uniform codes address misconduct, and those who have been convicted of crimes, and the circumstances under which they may not obtain a license. Omit it from here, leave it all to the uniform codes.**

Strike Page 4 Line 6 through 16:

**Rationale – Why this change needs to be made:** One provision means a person convicted of narcotics violations can be refused a license. Even Montana law allows for a rehabilitated person to gain a license. We think this countermands Montana law and should not be included. Let the uniform code provisions address this issue. There are uniform codes addressing the issues in this section, and allows rule-making that addresses unprofessional conduct issues specific to the profession. It does not have to be in here.

The issue below is not a "deal-breaker" for us.

**Misc. Issue: Can we really have licenses ready to go by July 2010?**

Page 4 line 18

Following: "July 1,"

Strike: 2010

Insert: "2011"

**Rationale – Why this change needs to be made:**

We think that it may take a while to get everything together, and we want to ensure that there is plenty of time before folks have to have their licenses.

# AMTA Government Relations Overview

## **Why license the massage therapy profession?**

Under U.S. law authority rests with states to regulate professions that have an impact on the health, safety and welfare of the public. This isn't something that is done through national legislation.

The American Massage Therapy Association (AMTA) recognizes that state government regulation of the practice of massage therapy is the best way to meet the needs of the public and the massage therapy profession. Leaving massage therapy regulation decisions to local government results in inconsistent regulation or none at all. The association believes that state licensure is the most effective means for the states to regulate our profession.

State licensure requires that only a person who holds a valid license from the state can engage in the practice of massage therapy or advertise to the public that they are practicing massage therapy. It also applies criminal penalties for people who practice without a valid massage therapy license. Professional licensure laws establish a minimum level of competency necessary to safely and effectively practice.

## **What are the benefits of professional licensure?**

AMTA believes that the following benefits come from professional licensure:

- Protection of the public through the establishment of standards for entry into the profession.
- Protection of the public through the regulation of practice and recourse to effective disciplinary action.
- Fair and consistent regulation applying to the whole state.
- The right of massage therapists to define their practice, through proposed legislation and through regulation under an authoritative or advisory board of massage therapy.

These are some reasons AMTA is proactively pursuing state licensure in all states. These regulations are designed to protect the general public by demanding accountability from the profession. They also seek to unify the profession by providing a common governing structure, minimum competency, culture and language.

## **How can we achieve fair, consistent massage therapy licensure laws?**

The most significant problem associated with professional massage therapy licensure is the lack of consistency among states that have some form of regulation in place. This could be due, in part, to a lack of a centralized government relations strategy which has left us with a patchwork of state and city laws. The wide-ranging massage therapy regulations have presented many challenges for therapists who relocate from one city or state to another, for health care professionals trying to refer patients for massage therapy, for the patients themselves, and for third party reimbursement.

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AMTA supports consistent massage therapy licensure standards that encourage reciprocity between states and eventually achieve overall portability of massage therapy credentials. Portability means a licensed massage therapist's education and training credentials would be accepted if they move to another state or open a location in another state. AMTA is working to improve the current regulatory environment through the creation of a centralized government relations strategy designed to achieve fair and consistent licensing in all states. This is the top advocacy priority for AMTA and it will require a long-term commitment.

The first step in the effort to achieve consistent licensure standards is to guarantee the inclusion of **"must have"** and **"should have"** elements in any and all baseline massage therapy practice acts. The association feels these necessary elements will provide consistency and clarity to state licensure regulations. And, they form the basis of the AMTA Government Relations policy we began working with on May 1, 2006.

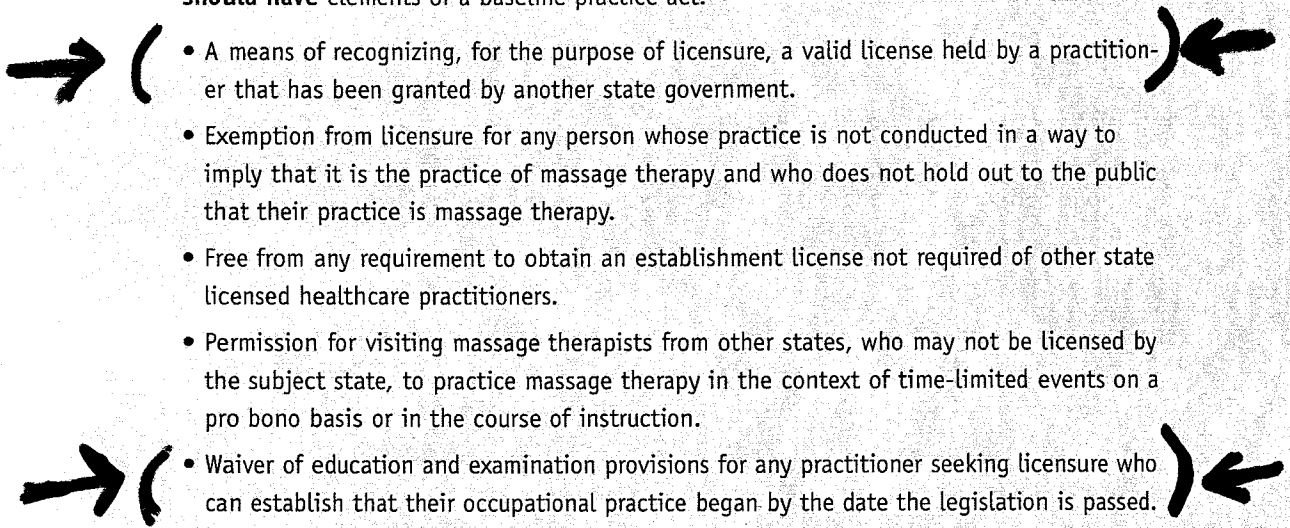
### **Must Have Elements of a Baseline Massage Therapy Practice Act**

In order for the association (national or chapter) to support massage therapy legislation, the following content and practice conditions are **must have** elements of a baseline practice act:

- At least the minimum scope of practice for massage based on a definition of those massage procedures which are observable by the common person (i.e. the physical action of the therapist touching the client is observable.)
- A licensure qualification requiring successful completion of a professional course of study consisting of at least five hundred hours of in-class, supervised education authenticated by a single education provider, with content well distributed in the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice.
- A licensure qualification that requires passing an examination that has met national accreditation standards and which is administered by a recognized body independent of the education provider, with content that covers the subjects in a professional course of study, as described above.
- Authority, which may be tacit, of licensees to practice within the scope of massage therapy practice, free from any requirement to obtain any other occupational license.
- Powers and duties of the massage therapy regulatory agency which are customary for the regulation of other healthcare professions in the state.
- Disciplinary and penalty provisions which are customary for the regulation of other healthcare professions in the state.
- An authoritative or advisory board of massage therapy, with a majority comprised of massage therapists, and special provisions for the initial appointment of qualified massage therapists as board members whose terms will begin before any licenses have been issued.

## Should Have Elements of a Baseline Massage Therapy Practice Act

The association advises chapters that the following content and practice conditions are **should have** elements of a baseline practice act:

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- A means of recognizing, for the purpose of licensure, a valid license held by a practitioner that has been granted by another state government.
  - Exemption from licensure for any person whose practice is not conducted in a way to imply that it is the practice of massage therapy and who does not hold out to the public that their practice is massage therapy.
  - Free from any requirement to obtain an establishment license not required of other state licensed healthcare practitioners.
  - Permission for visiting massage therapists from other states, who may not be licensed by the subject state, to practice massage therapy in the context of time-limited events on a pro bono basis or in the course of instruction.
  - Waiver of education and examination provisions for any practitioner seeking licensure who can establish that their occupational practice began by the date the legislation is passed.
  - An effective date for the licensure requirement which is at least one year from the time the legislation is passed.
  - Pre-emption of local regulation that would in any way treat massage therapy differently from local regulation of other healthcare professions.
  - Inclusion of the following Suggested Movement Practices Exemption Language:

Nothing in this Article shall be construed to prevent or restrict the practice of any person in this state who uses touch, words and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged within the scope of practice of a profession with established standards and ethics, provided that their services are not designated or implied to be massage or massage therapy. Such practices include, but are not limited to the Feldenkrais Method® of somatic education, the Rolf Institute's Rolf Movement Integration, the Trager Approach® to movement education, and Body-Mind Centering®. Practitioners must be recognized by or meet the established standards of either a professional organization or credentialing agency that represents or certifies the respective practice based on a minimal level of training, demonstration of competency, and adherence to ethical standards.
  - Inclusion of the following Suggested Energy Practices Exemption Language:

Nothing in this Article shall be construed to prevent or restrict the practice of any person in this state who uses touch to affect the energy systems, acupoints or Qi meridians (channels of energy) of the human body while engaged within the scope of practice of a profession with established standards and ethics, provided that their services are not



## **Business League for Massage Therapy & Bodywork (BLMTB)**

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### **Newsletter / Legislative Update March 24, 2009**

**#0031**

The Hearing for HB662, the massage therapy bill has been scheduled:

When: Friday, March 27

Time: 8:30 am

Where: Room 172 at the Capitol building in Helena

We have looked at the bill and we don't like it.

Grandfathering: there is none! This will put practitioners out of business.

Reciprocity: Much stricter than accepted nationally.

Schools: must meet criteria for national accreditation, but criteria is not defined. It could put schools out of business.

Manual techniques and other things excluded from our scope. This is a big concern.

But don't listen to us. Here's another viewpoint: the massage therapy bill has attracted national attention and Vivian Mahoney, a nationally respected insurance consultant to massage therapists had this to say:

I have such a difficult time understanding why they are making this so difficult and so different than in most states. Such as not allowing grandfathering,

I don't know of a state that has not grandfathered practicing therapists in, under certain time frames and conditions.

And the very worst is that they are not allowing MANUAL THERAPY.

In the AMERICAN MEDICAL ASSOCIATION's (AMA) CPT Code Book, the section for PHYSICAL MEDICINE does NOT say PHYSICAL THERAPY, it has a specific code for Manual Therapy 97140.

If they do not allow you to use the term MANUAL THERAPY then you are not allowed to use the term or provide MYOFASCIAL RELEASE techniques to a patient because that is a procedure INCLUDED in MANUAL THERAPY as is MANUAL TRACTION. Or any deep tissue therapy techniques.

AMA (Who owns the CPT CODES) in the CPT Code Book also states in the introduction section, that the codes are NOT for any specific provider group but may be used by any physician or health care provider. Of course we all know what we provide as a service to a patient or client must be within our scope of practice or training. IF myofascial release /manual therapy is not in your scope of practice, you are doomed for the most part except to use only "massage".

So the way I see it, if this AMTA bill is the same as mentioned in this letter and as in the past, then you guys will ONLY be allowed to provide basic Swedish Massage and totally worthless in some major medical conditions prescribed by treating physicians.

The other thing, does the term exercise elimination also mean stretching? How about Range of Motion? How about flexion, extension, rotation, etc??

Vivian M. Mahoney,  
Insurance Consultant to Massage Therapists  
Insurance Committee Chair, Florida State Massage Therapy Assoc. (FSMTA)  
serving approx 5,000 members and over 27,000 FL Licensed LMTs

PS. Deb I have been an AMTA member 25 years this year and have NEVER seen such antics.

**So please, go to the hearing, voice your displeasure and say "NO on HB 662"**